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Title: 'We finally got a break' - Wineries can ship Internet, phone orders to customers

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Lead:

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The break comes for Sinking Valley, and all small Kentucky wineries, as they will be able to ship directly to people who order their products by phone or Internet. The change comes because Kentucky has dropped out of a federal lawsuit over the issue.

The new development means 43 licensed wineries in Kentucky can now ship wine to customers who place orders by phone or online. Small wineries in other states will be eligible to do the same, but as of last week, the state hadn't received any applications for licenses.

To be able to get a license, a winery must produce less than 50,000 gallons of wine a year.

Burton said he believes this will be very helpful to his business, as there are so many out of state customers.

He estimated that so far in a given year 30 percent of his winery customers would be from out of state, without Internet or phone sales. This is just from ads, word of mouth, and people driving by.

"It will definitely play a role," said Burton.

The state decided to drop out of the case because a judge's ruling in December upheld "almost all" of the challenged portions of the new law, said Nikki Ploskonka, a spokeswoman for the state Office of Alcoholic Beverage Control. Steve Humphress, attorney for the office of Alcoholic Beverage Control, had predicted that the state would appeal.

Kentucky's wine-shipping laws have been the target of a lawsuit since May 2005. The case was launched by the Huber Orchard and Winery in Clark County, Ind., although the most recent plaintiff was Oregon-based Cherry Hill Vineyards.

U.S. District Judge Charles R. Simpson III ruled in late December that a state law set to take effect Jan. 1, would be unconstitutional because it required a customer to visit a winery in person to order a shipment by mail.

The theory was that Kentucky wineries would benefit unfairly from the in-person rule, because they are more accessible to the state's consumers than out-of-state operations. Kentucky regulators previously argued that the shipments would allow residents to skirt the law in dry counties, and make it easier for minors to buy alcohol.

While the state dropped out of the lawsuit, an appeal has been filed by a co-defendant, the Wine and Spirits Wholesalers of Kentucky.

Ploskonka told the Commonwealth Journal it is the first time in history that small farm wineries can ship wine without seeing a person face to face.

Ploskonka also said that although Wine and Spirits Wholesalers of Kentucky will be appealing, the wineries can begin taking orders via phone and Internet at this point and don't have to wait until the appeal process is over.

"We'll probably try to get started doing this in the summer," said Burton.

He said that he believes his family's winery business it could see a 10 percent increase in sales, helping all year, but especially around Christmas time with shipping gift baskets.

Burton said the earlier ruling by Simpson could also affect other states in the future because of a previous ruling on the books. Currently, only about half of the states allow shipping.

The Associated Press contributed to this story.

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